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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,067	12/06/2001	Louis C. Philippe	Serie 4429 53b-1	7458

7590 04/01/2002

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EXAMINER

CIRIC, LJILJANA V

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 04/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 10/016,067	Applicant(s) Philippe et al.
Examiner Ljiljana V. Ciric <i>AVC</i>	Art Unit 3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Dec 6, 2001

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 15-30 is/are pending in the application.

4a) Of the above, claim(s) none is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 15-30 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2      20)  Other: \_\_\_\_\_

Art Unit: 3743

## **DETAILED ACTION**

### ***Response to for Filing a Divisional Application***

1. The request for filing a divisional application includes a request to cancel in this application original claims 1-14 and 31-38; while claims 1-14 exist in the instant application, claims 31-38 do not.
2. Claims 16 through 30 remain in this application following partial entry of the above request for claim cancellation.

### ***Claim Rejections - 35 U.S.C. § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 15 through 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 15, it is not clear what is meant by the limitation “or boilers with two air injection levels is retrofitted to three levels”, rendering the claim generally incomprehensible, and thus also rendering indefinite claim 15 and claims 16 through 19 depending therefrom.

The claims generally contain numerous informalities. Furthermore, most, if not all, of the claims contain multiple sets of alternative language which render the claims indefinite with regard to the scope of protection sought. For example, claim 19 cites “the method comprising applying

Art Unit: 3743

oxygen enrichment to at least the secondary and one or more of third and fourth air levels”, which is unclear as written, thus rendering claims 19 through 24 indefinite. The alternative limitations “to improve the combustion stability or chemical recovery of a recovery boiler” as cited in the preambles of each of claims 27 and 28 renders the same indefinite with regard to the scope of protection sought.

With regard to claim 25, the limitation “or a recovery boiler with an original two level air injection system retrofitted to three levels as described above” is generally incomprehensible, thus rendering the claim indefinite.

With regard to claim 30, it is not clear how the limitation “called set point temperature profile” is intended to correlate with the remainder of the claim, thus rendering the claim indefinite with regard to the scope of protection sought.

There is insufficient antecedent basis for the following limitations in the claims, *for example*: “the oxygen concentration” [claim 26, line 1]; “the combustion air” [claim 26, line 2; claim 30, line 2]; “the combustion air system” [claim 27, lines 2-3; claim 28, lines 2-3]; and, “the primary combustion air level” [claim 27, line 4].

The above is an indicative, but not necessarily an exhaustive, list of 35 U.S.C. 112, second paragraph, problems. Applicant is therefore advised to carefully review all of the claims for additional problems. Correction is required of all of the 35 U.S.C. 112, second paragraph problems, whether or not these were particularly pointed out above.

Art Unit: 3743

5. The non-application of art against claims should not be construed as an indication that the claims contain allowable subject matter but rather that the claims could not be examined on the merits due to indefiniteness.

*Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Cirim, whose telephone number is (703) 308-3925.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached on (703) 308-1935. The fax phone number is (703) 305-3463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.



lvc

LJILJANA CIRIC  
PATENT EXAMINER

March 23, 2002